

### **Title 3—The President**

of August 29, 2003, for the Secretary of State (Assistance for Voluntary Population Planning). In addition, I direct the Secretary of State and the Administrator of USAID to take the following actions with respect to conditions in voluntary population planning assistance and USAID grants that were imposed pursuant to either the 2001 or 2003 memoranda and that are not required by the Foreign Assistance Act or any other law: (1) immediately waive such conditions in any current grants, and (2) notify current grantees, as soon as possible, that these conditions have been waived. I further direct that the Department of State and USAID immediately cease imposing these conditions in any future grants.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register*.

BARACK OBAMA

THE WHITE HOUSE,  
*Washington, January 23, 2009.*

#### **Memorandum of January 26, 2009**

#### **State of California Request for Waiver Under 42 U.S.C. 7543(b), the Clean Air Act**

*Memorandum for the Administrator of the Environmental Protection Agency*

Under the Clean Air Act (42 U.S.C. 7401–7671q), the Environmental Protection Agency (EPA) sets emissions standards for new motor vehicles. California may also adopt standards for new motor vehicles if the Administrator of the EPA, based on criteria set out in the statute, waives the general statutory prohibition on State adoption or enforcement of emissions standards. Other States may adopt emissions standards for new motor vehicles if they are identical to the California standards for which a waiver has been granted and comply with other statutory criteria.

For decades, the EPA has granted the State of California such waivers. The EPA's final decision to deny California's application for a waiver permitting the State to adopt limitations on greenhouse gas emissions from motor vehicles was published in the *Federal Register* on March 6, 2008.

In order to ensure that the EPA carries out its responsibilities for improving air quality, you are hereby requested to assess whether the EPA's decision to deny a waiver based on California's application was appropriate in light of the Clean Air Act. I further request that, based on that assessment, the EPA initiate any appropriate action.

## Other Presidential Documents

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are hereby authorized and directed to publish this memorandum in the *Federal Register*.

BARACK OBAMA

THE WHITE HOUSE,  
Washington, January 26, 2009.

### Memorandum of January 26, 2009

#### The Energy Independence and Security Act of 2007

*Memorandum for the Secretary of Transportation [and] the Administrator of the National Highway Traffic Safety Administration*

In 2007, the Congress passed the Energy Independence and Security Act (EISA). This law mandates that, as part of the Nation's efforts to achieve energy independence, the Secretary of Transportation prescribe annual fuel economy increases for automobiles, beginning with model year 2011, resulting in a combined fuel economy fleet average of at least 35 miles per gallon by model year 2020. On May 2, 2008, the National Highway Traffic Safety Administration (NHTSA) published a Notice of Proposed Rulemaking entitled *Average Fuel Economy Standards, Passenger Cars and Light Trucks; Model Years 2011–2015*, 73 *Fed. Reg.* 24352. In the notice and comment period, the NHTSA received numerous comments, some of them contending that certain aspects of the proposed rule, including appendices providing for preemption of State laws, were inconsistent with provisions of EISA and the Supreme Court's decision in *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007).

Federal law requires that the final rule regarding fuel economy standards be adopted at least 18 months before the beginning of the model year (49 U.S.C. 32902(g)(2)). In order for the model year 2011 standards to meet this requirement, the NHTSA must publish the final rule in the *Federal Register* by March 30, 2009. To date, the NHTSA has not published a final rule.

Therefore, I request that:

(a) in order to comply with the EISA requirement that fuel economy increases begin with model year 2011, you take all measures consistent with law, and in coordination with the Environmental Protection Agency, to publish in the *Federal Register* by March 30, 2009, a final rule prescribing increased fuel economy for model year 2011;

(b) before promulgating a final rule concerning model years after model year 2011, you consider the appropriate legal factors under the EISA, the